

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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**FISCAL IMPACT STATEMENT**

**LS 7761**

**BILL NUMBER:** HB 1568

**NOTE PREPARED:** Apr 11, 2007

**BILL AMENDED:** Apr 10, 2007

**SUBJECT:** Marion County government.

**FIRST AUTHOR:** Rep. Crawford

**FIRST SPONSOR:** Sen. Merritt

**BILL STATUS:** 2<sup>nd</sup> Reading - 2<sup>nd</sup> House

**FUNDS AFFECTED:** X **GENERAL**  
**DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) *Resolution to Consolidate:* The bill requires the legislative body and trustee of a township in a county having a consolidated city to act on the adoption of a resolution to consolidate the fire department of the township into the fire department of the consolidated city not later than December 31, 2007.

*Resolution Adoption:* It provides that if at least four members of the township legislative body vote to adopt the resolution, the township trustee may approve or reject the adoption of the resolution. It allows the township legislative body to override the trustee's rejection by an affirmative vote of at least four members of the township legislative body.

*Consolidate City Ordinance:* It provides that if a township adopts a resolution to consolidate the township fire department into the fire department of the consolidated city, the legislative body of the consolidated city may adopt an ordinance, approved by the executive of the consolidated city, to consolidate the fire department into the fire department of a consolidated city.

*Effective Date of Consolidation:* It requires a consolidation of a township fire department into the fire department of a consolidated city to take effect not later than January 1, 2009.

*Township Trustee and Legislative Body Abolished:* The bill provides that the following occurs in Center Township and any other township in Marion County that, before or after July 1, 2007, approves a consolidation of the township fire department into the fire department of the consolidated city:

- (1) The office of township trustee for the township is abolished effective January 1, 2011.
- (2) The township legislative body of the township is abolished effective January 1, 2011.

(3) Effective January 1, 2011, the functions, duties, and responsibilities of the township, township trustee, and township board with regard to the provision of township assistance, weed control, and maintenance of cemeteries is transferred to the Health and Hospital Corporation.

(4) Effective January 1, 2011, all remaining functions, duties, and responsibilities of the township (except for the office of township assessor), township trustee, and township board are transferred to the consolidated city.

*Taxes and Debts:* It provides upon consolidation for:

- (1) adjustment of maximum property tax levies of the consolidating township and the governmental units that assume former township duties;
- (2) transfer of certain funds from the township to those units;
- (3) retention by the township of responsibility for outstanding indebtedness; and
- (4) retention by the township of money in its cumulative building and equipment fund for fire protection and related services to be used to retire township indebtedness or reduce property taxes.

*Termination of Township Trustee and Legislative Body:* The bill establishes that an incumbent township trustee whose office is abolished on January 1, 2011, serves through December 31, 2010. It establishes a two year term of office through December 31, 2010, for a member elected in 2008 to a township legislative body that is abolished on January 1, 2011.

*Township Assessor:* The bill provides that the office of township assessor continues to provide assessing functions in each township that consolidates and is elected by the voters of the township.

*Excluded City:* It specifies that the fire department of the consolidated city may provide fire protection services within an excluded city if the consolidated city and excluded city enter into an interlocal agreement, or follow the procedures under current law for entering into a cooperative agreement.

*Reimbursement of Excluded Cities:* The bill provides for reimbursement of excluded cities of facility and communication costs from money received by a public communications systems and computer facilities district created in Marion County.

*Stormwater District:* The bill provides that an excluded city or town that withdraws from a stormwater district is liable for the net present value of indebtedness issued by the consolidated city for stormwater projects benefitting the city or town in the same ratio as the assessed valuation of the property in the city or town bears to the assessed valuation of all property included in the district.

*Small Claims Court:* Effective January 1, 2011, the bill replaces the Marion County small claims courts with corresponding township divisions of a small claims division of the Marion superior court. It repeals current provisions concerning the Marion County small claims courts.

*Legislative Findings:* The bill makes legislative findings concerning the need for government consolidation in Marion County.

**Effective Date:** (Amended) Upon passage; July 1, 2007; January 1, 2011.

**Explanation of State Expenditures:** (Revised) *State Board of Accounts:* The State Board of Accounts

(SBA) will incur additional expense to perform an evaluation and performance audit of the cost savings, operational efficiencies, or improved levels of service; and any tax shifts among taxpayers. The SBA evaluation and audit results will be provided to the Legislative Council and the State Budget Agency before March 1, 2012 and before March 1 of the following two years. The hourly rate for auditing by the State Board of Accounts is about \$65.71 as of December 12, 2006.

The funds and resources required above could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

*All Provisions Regarding Property Tax:* Assuming that taxing units will levy up to their maximum levy authority, the overall total of the affected entities' maximum levies and levies would not change as a result of this proposal. Therefore, state expenses for PTRC and homestead credits would be unaffected by this bill.

### **Explanation of State Revenues:**

**Explanation of Local Expenditures:** (Revised) *Stormwater Projects:* Under current law, an excluded city may withdraw from a stormwater district, but if there are bonds outstanding issued by the public works department of a consolidated city, the municipality pays the a proportional (based on property valuation) portion of the indebtedness. Under the bill, the bonds must have been issued for stormwater projects benefitting the municipality and the municipality must pay its portion of the net present value of the indebtedness.

*Small Claims Courts:* Consolidating the Superior Courts with the Small Claims Courts might yield some administrative savings and could realize an increase of revenue to the Marion County general fund of between \$130,000 and \$500,000, depending on the number of small claims filings in any given year. This revenue is currently deposited with the township trustee for deposit into the township general fund. Using the weighted caseload methodology, it appears that, on average, there are no underutilized judges.

The Marion County Small Claims Court is composed of nine small claims court divisions. The Court's jurisdiction is limited to civil cases founded on contract or tort in which the claim does not exceed \$6,000, in actions for possession of property where the value of the property sought to be recovered does not exceed \$6,000, and in possessory actions between landlord and tenant in which the past due rent at the time of filing does not exceed \$6,000. These courts have no jurisdiction in actions seeking injunctive relief or involving partition of real estate; in actions to declare or enforce any lien (with certain exceptions); in actions in which the appointment of a receiver is asked; or in suits for dissolution or annulment of marriage.

As proposed, these courts would be consolidated with the Marion County Superior Courts. These courts would retain their jurisdiction and remain courts of non-record, meaning that there is no written record kept of any of the judicial decisions. Parties who wish to appeal a decision would file with the superior courts in Marion County. Also, under the bill, any vacancy for the Small Claims Court constable would be appointed by the Governor rather than the township legislative body.

Except for constables, all other court employees, including small claims judges, would be paid by the county with salaries determined by the Marion County Superior Court Executive Committee.

Caseload Changes – The Weighted Caseload Study published by the Indiana Supreme Court's Division of State Court Administration was used to identify the efficiencies of the current court systems. This study is based on a methodology that assigns a normative amount of time that each type of case would take to be resolved. Criminal cases, particularly capital murder cases take the longest (2,649 minutes), while deciding on cases involving infractions and ordinance violations should take the shortest (2 minutes each). Small claims cases should be decided in 13 minutes under this system. Based on the number of filings that each court receives and the average time that each case should require to make a decision, the weighted caseload method can estimate the number of judicial officers needed to decide these cases within this normative framework. The number of judicial officers that are needed can then be compared to the existing number of judicial officers in the locality.

Using 2005 statistics, the most recent published statistics available, the following table shows the number of judicial officers needed compared to the number in existence. For both the courts of record and the Marion County Small Claims Courts, the need for judicial officers exceeds the number of existing judicial officers. Consequently, any opportunities for these courts to share cases appears to be limited.

| <b>Comparing Judicial Officers Needed with Existing Court Officers<br/>Using the Weighted Caseload Method</b> |                                |                         |
|---|--------------------------------|-------------------------|
|   | <b>Small Claims<br/>Courts</b> | <b>Courts of Record</b> |
| Judicial Officers Needed  | 12.16                          | 80.11                   |
| Judicial Officers Currently Existing  | 9.00                           | 70.53                   |

Expenditures and Revenues – Expenditures and revenues are reported in the annual reports of the Indiana Judicial Reports between 2000 and 2005. Currently, small claims court fees are deposited to, and expenses paid from, the township general fund. If both expenditures and revenues remain within the average between 2000 and 2005, the general fund of Marion County could receive between an additional \$130,000 and \$500,000 each year in net revenue, after expenses.

| Five-Year History of Expenditures<br>for Marion County Small Claims Courts |                    |                    |                    |                    |                    |                    |
|--|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
|  | <u>2000</u>        | <u>2001</u>        | <u>2002</u>        | <u>2003</u>        | <u>2004</u>        | <u>2005</u>        |
| <b>Judges</b>  | \$412,762          | \$425,957          | \$445,275          | \$469,232          | \$483,900          | \$489,125          |
| <b>Administrator</b>   |                    |                    |                    | 46,000             | 81,269             |                    |
| <b>Secretaries</b>   | 92,712             | 109,470            |                    |                    | 92,515             | 137,608            |
| <b>Court Clerk &amp;<br/>Other Employees</b>                               | 978,443            | 1,074,581          | 1,278,019          | 1,202,807          | 1,146,061          | 1,198,350          |
| <b>Pauper Atty</b>   |                    |                    |                    | 400                |                    |                    |
| <b>Indigent Exp</b>  |                    |                    | 2,800              |                    |                    |                    |
| <b>Special Judge</b>   | 9,008              | 3,850              | 9,700              | 13,000             | 13,275             | 13,940             |
| <b>Other non-salaried</b>  | 16,822             |                    | 69,104             | 128,825            | 84,283             | 95,301             |
| <b>Court Interpreter</b>   |                    |                    |                    |                    | 600                | 3,160              |
| <b>Supplies</b>  | 120,506            | 147,464            | 163,017            | 226,677            | 159,288            | 130,040            |
| <b>Rentals</b>   | 287,664            | 269,750            | 276,782            | 69,964             | 214,130            | 115,086            |
| <b>Lodging/Meals</b>   |                    | 5,953              |                    | 60,803             |                    |                    |
| <b>Other Services<br/>&amp; Charges</b>                                    | 193,561            | 167,699            | 219,099            | 44,661             | 219,620            | 162,554            |
| <b>Legal Libraries</b>   | 2,200              | 2,521              | 2,538              | 20,573             | 6,889              | 3,869              |
| <b>Other Capital Outlays</b>   | <u>21,005</u>      | <u>28,000</u>      | <u>53,376</u>      | <u>6,000</u>       | <u>36,959</u>      | <u>33,942</u>      |
| <b>Total Expenditures</b>  | <b>\$2,134,683</b> | <b>\$2,235,245</b> | <b>\$2,519,710</b> | <b>\$2,288,942</b> | <b>\$2,538,789</b> | <b>\$2,382,975</b> |

| Net Revenue Generated by Marion County Small Claims Courts by Calendar Year |                    |                    |                    |                    |                    |                    |
|---|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
|   | <u>2000</u>        | <u>2001</u>        | <u>2002</u>        | <u>2003</u>        | <u>2004</u>        | <u>2005</u>        |
| <b>Township Docket Fees</b>   | \$2,702,145        | \$2,810,192        | \$2,704,722        | \$2,680,143        | \$2,740,363        | \$2,822,707        |
| <b>Total Expenditures</b>   | <u>\$2,134,683</u> | <u>\$2,235,253</u> | <u>\$2,519,710</u> | <u>\$2,288,942</u> | <u>\$2,583,789</u> | <u>\$2,382,975</u> |
| <b>Revenue less Expenditures</b>  | <u>\$567,462</u>   | <u>\$574,939</u>   | <u>\$185,012</u>   | <u>\$391,201</u>   | <u>\$156,574</u>   | <u>\$439,732</u>   |

*Township Trustee and Legislative Body Abolished:* If a township and a consolidated city complete the requirements to consolidate the township fire department with the consolidated city fire department, the township trustee and the township legislative body would be abolished. All assets, property rights, equipment, records, personnel, and contracts transfer to the Health and Hospital Corporation, the

consolidated city, and the legislative body of the consolidated city, along with the duties and responsibilities of the township trustee and township legislative body by January 1, 2011.

Health and Hospital Corporation: The Health and Hospital Corporation (Corporation) would take over township trustee responsibilities for township assistance, county homes, detrimental plants, and cemetery funds. The responsibilities for township assistance include hiring supervisors, investigators, assistants, and other employees to provide care and establishing a division of township assistance within the Corporation. The Corporation would be immune from civil liability concerning detrimental plants, just as township trustees are. The Corporation would levy taxes in the combined area of the Corporation and the consolidating township beginning with property taxes first due and payable in 2011.

Consolidated City: The consolidated city would be responsible for parks and recreation and partition fences. The consolidated city would levy property taxes in the combined area of the consolidated city and in the consolidating township beginning with property taxes first due and payable in 2011.

Legislative Body of the Consolidated City: The legislative body of the consolidated city would establish advisory committee of citizens interested in problems concerning planning and zoning.

*Fire Department Consolidation:* The township legislative body may vote on a resolution to consolidate the fire department of the township with the fire department of a consolidated city after at least three public meetings and before December 31, 2007. The township trustee approves or rejects the resolution, but the legislative body could override the rejection with the vote of four members. The legislative body and executive of the consolidated city must adopt an ordinance approving the consolidation. The consolidation must take place by January 1, 2009.

The consolidated fire department provides services to the entire county except in Beech Grove, Lawrence, and Speedway, unless those excluded cities develop interlocal agreements. A consolidating township retains the township's fire-related debt incurred prior to consolidation and the consolidated city retains the city's fire-related debt incurred prior to consolidation. For the existing city debt, the consolidated city may levy tax only in the fire special service district, but not in the consolidating township. The consolidated city assumes the powers, duties, agreements, and liabilities of bonds or other indebtedness.

Assignment of Property and Debt: If consolidation occurs, any property, equipment, records, rights, and contracts are conveyed to the consolidated fire department. If a township adopts a resolution to consolidate fire departments, any balance in the consolidating township's cumulative fire fund would be retained by the township and used to pay existing township fire debt. If any balance remains after the debt is paid, it may be used by the township to reduce its general fund property tax levy. The bill transfers the balance of the township firefighting fund to the consolidated city, if consolidation occurs.

*Background:* The budgeted operating balance for township fire cumulative funds at the end of 2006 was \$9.6 M. The budgeted operating balance for township firefighting funds at the end of 2006 was \$31,000. The total balance of existing township fire debt is estimated to be \$5.6 M at the end of 2007.

Pension - After a consolidation, members of the 1937 Fund remain members of the 1937 Fund and members of the 1977 Fund remain members of the 1977 Fund. The consolidated city may levy property tax for pension obligations of members of the 1937 Fund and the 1977 fund who were employees prior to consolidation only in the fire special service district and not in the consolidating township. This should result in no fiscal impact.

*Township Fire Levy and Budget Information:* The eight suburban townships of Marion County had the following certified budgets, levies, and rates in CY 2005 with respect to fire-related funds.

| <b>CY 2006 Township Fire Budgets &amp; Levies</b> |                       |                   |             |                        |                  |             |                  |                  |             |
|---|-----------------------|-------------------|-------------|------------------------|------------------|-------------|------------------|------------------|-------------|
|   | <b>Fire Operating</b> |                   |             | <b>Cumulative Fire</b> |                  |             | <b>Fire Debt</b> |                  |             |
| <b>Township</b>                                   | <b>Budget</b>         | <b>Levy</b>       | <b>Rate</b> | <b>Budget</b>          | <b>Levy</b>      | <b>Rate</b> | <b>Budget</b>    | <b>Levy</b>      | <b>Rate</b> |
| Decatur   | 2,811,682             | 1,988,943         | 0.1907      | 150,150                | 259,699          | 0.0249      | 2,483,590        | 2,290,361        | 0.2196      |
| Franklin  | 7,441,902             | 4,050,667         | 0.2098      | 400,000                | 378,423          | 0.0196      | 770,780          | 384,215          | 0.0199      |
| Lawrence  | 10,478,248            | 7,505,316         | 0.2085      | 1,750,000              | 799,127          | 0.0222      | 0                | 0                | 0.0000      |
| Perry   | 10,045,838            | 6,725,052         | 0.2041      | 1,226,550              | 708,420          | 0.0215      | 0                | 0                | 0.0000      |
| Pike  | 6,535,631             | 10,189,277        | 0.2030      | 1,175,932              | 1,370,282        | 0.0273      | 0                | 0                | 0.0000      |
| Warren  | 13,015,637            | 7,950,145         | 0.2557      | 1,070,138              | 304,699          | 0.0098      | 370,138          | 0                | 0.0000      |
| Washington  | 16,530,457            | 10,035,464        | 0.1815      | 816,433                | 1,166,657        | 0.0211      | 0                | 0                | 0.0000      |
| Wayne   | 17,309,898            | 12,167,631        | 0.3827      | 950,000                | 855,263          | 0.0269      | 0                | 0                | 0.0000      |
| <b>TOTAL</b>                                      | <b>84,169,293</b>     | <b>60,612,495</b> |             | <b>7,539,203</b>       | <b>5,842,570</b> |             | <b>3,624,508</b> | <b>2,674,576</b> |             |

|                 | <b>Fire Pension</b> |                |             | <b>TOTAL</b>      |                   |             |
|-----------------|---------------------|----------------|-------------|-------------------|-------------------|-------------|
| <b>Township</b> | <b>Budget</b>       | <b>Levy</b>    | <b>Rate</b> | <b>Budget</b>     | <b>Levy</b>       | <b>Rate</b> |
| Decatur         | 0                   | 0              | 0.0000      | 5,445,422         | 4,539,003         | 0.4352      |
| Franklin        | 0                   | 0              | 0.0000      | 8,612,682         | 4,813,305         | 0.2493      |
| Lawrence        | 0                   | 0              | 0.0000      | 12,228,248        | 8,304,443         | 0.2307      |
| Perry           | 505,802             | 191,109        | 0.0058      | 11,778,190        | 7,624,581         | 0.2314      |
| Pike            | 0                   | 0              | 0.0000      | 7,711,563         | 11,559,559        | 0.2303      |
| Warren          | 338,639             | 0              | 0.0000      | 14,794,552        | 8,254,844         | 0.2655      |
| Washington      | 1,129,141           | 171,405        | 0.0031      | 18,476,031        | 11,373,526        | 0.2057      |
| Wayne           | 0                   |                | 0.0000      | 18,259,898        | 13,022,894        | 0.4096      |
| <b>TOTAL</b>    | <b>1,973,582</b>    | <b>362,514</b> |             | <b>97,306,586</b> | <b>69,492,155</b> |             |

Note: The budgets listed in the above tables include certified plus additional appropriations where applicable.

Background - Fire Service Information: There are approximately 36 fire stations (including the Indianapolis International Airport station) in the eight suburban townships of Marion County. There are 8 additional stations in the three excluded cities that have fire departments.

Explanation of Local Revenues: (Revised) *Small Claims Courts:* The Division of State Court

Administration reports that Marion County Small Claims Courts reported three type of revenues: the township docket fee and two service-of-process fees.

The following table shows a five-year history of these revenues.

|  | <u>2000</u>        | <u>2001</u>        | <u>2002</u>        | <u>2003</u>        | <u>2004</u>        |
|--|--------------------|--------------------|--------------------|--------------------|--------------------|
| <b>Township Docket Fees</b>                        | \$2,702,145        | \$2,810,192        | \$2,704,722        | \$2,680,143        | <b>\$2,740,363</b> |
| <b>Service of Process Fee for Certified Mail</b>   | \$80,117           | \$830,347          | \$994,144          | \$277,391          | <b>\$1,068,591</b> |
| <b>Service of Process Fee for Personal Service</b> | \$1,293,968        | \$950,195          | \$1,099,396        | \$1,868,585        | <b>\$1,180,794</b> |
| <b>Total Revenues Collected</b>                    | <b>\$4,076,230</b> | <b>\$4,590,734</b> | <b>\$4,798,262</b> | <b>\$4,826,119</b> | <b>\$4,989,748</b> |

Under current law, constables who serve in the small claims court system are paid exclusively through the service-of-process fee revenue. As proposed, constables will continue to be paid from these fees. The township docket fees would be deposited in the county general fund.

Since the fee revenues exceed the reported expenditures, any net revenue that currently stays at the township level would be reduced as the docket fees are deposited in the county general fund.

*Property Tax Levies in General:* This bill would cause firefighting fund levy authority to be transferred from consolidating townships to the consolidated city taxing unit. Each of these tax levies is moving from a smaller, more localized tax base to a broader tax base. Except for certain fire pensions, the fire tax rate would be the same for all taxpayers in the consolidated fire district.

*Firefighting Maximum Levies:* The consolidated city's maximum permissible levy would be increased by the previous maximum firefighting levy for consolidating townships. The consolidating township's maximum firefighting levy would be eliminated.

*Other Property Tax Levies:* The Health and Hospital Corporation and the County would be permitted to impose property tax levies to fund the services (other than firefighting) transferred from a township that would otherwise have been funded with property tax by the township.

**State Agencies Affected:** Department of Local Government Finance; State Board of Accounts.

**Local Agencies Affected:** Marion County; City of Indianapolis; Townships in Marion County; Cities of Indianapolis, Beech Grove, and Lawrence; Town of Speedway.

**Information Sources:** Local Government Database; 2005 Marion County Budget; Indiana Judicial Reports 2000 - 2005

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